

ZONING AND ADJUSTMENT BOARD

February 17, 2003

The Zoning and Adjustment Board of Sumter County, Florida convened on Monday, February 17, 2003 at 6:30 P.M. with the following members present: Frank Topping, Dossie Singleton, Dave Pierazek, Rusty Mask, Richard Bradley, Todd Brown, and Doug Childers, Jr. Dale Nichols, Lamar Parker, Evan Merritt, Mark Caruthers, and Larry Story were absent. Terry Neal, Board Attorney, was present. Roberta Rogers, Director of Planning & Development and Aimee Webb, Board Secretary, were also present.

Due to the absence of the Chairman and Vice-Chairman, Mr. Brown made a motion to appoint Mr. Topping as acting Chairman. Mr. Childers seconded the motion and the motion carried.

The Board members led everyone in the pledge of allegiance and prayer.

Mr. Bradley made a motion to approve the minutes from the ZAB Meeting on February 3, 2003. Mr. Brown seconded the motion and the motion carried.

Mr. Topping presented the Proof of Publication.

03S-2

Flamingo Heights, LLC

Robert Hogan, representative for the corporation, was present and requesting a Small Scale Comprehensive Plan Amendment from Rural Residential to Low Density Residential on 9.599 acres MOL. There were no objections from the audience.

The Board had questions regarding the plans for the property and Mr. Hogan explained they were creating a subdivision with one acre and half-acre tracts. There were no further questions or discussion from the Board. Mr. Topping made a motion to recommend approval for a Small Scale Comprehensive Plan Amendment from Rural Residential to Low Density Residential to the Board of Sumter County Commissioners based on the information provided in the staff report. Mr. Brown seconded the motion and the motion carried.

Mr. Nichols arrived at 6:37 p.m. and assumed the chair and voted on the above case.

ZP2003-10

Flamingo Heights, LLC

Robert Hogan, representative for the corporation, was present and requesting a rezoning from RR1C to R2C on 9.599 acres MOL of a 19.40 acre MOL parcel. There were three notices sent. Of the three notices sent, none were received in favor and none in objection. There were no objections from the audience. There were no further questions or discussion from the Board. Mr. Topping made a motion to recommend approval of the

rezoning to the Board of Sumter County Commissioners based on the information provided in the staff report. Mr. Brown seconded the motion and the motion carried.

ZP2003-11

Five Land Group, LLC

Paul Furman, representative for the corporation, was present and requesting a rezoning from PUD to RPUD on 58.94 acres MOL. There were nine notices sent. Of the nine notices sent, none were received in favor and none in objection. Mr. Furman explained to the Board the residential subdivision would consist of 115 home sites with a typical lot size being 70' x 100'. The subdivision would have central water, a recreation hall, and a wastewater treatment plant. There were some concerns by some audience members, Linda and Jim Lauderdale, as to the square footage requirements of the residences. The Board explained there were no restrictions other than a minimum of 600 square feet. There were no further questions or discussion from the Board. Mr. Brown made a motion to recommend approval of the requested rezoning based on the information provided in the staff report. Mr. Bradley seconded the motion and the motion passed.

ZP2003-9

Dublin Investments, LLC

Ted Graham, representative for the corporation, was present and requesting a Special Use Permit for a site built residence for agricultural housing on 41.13 acres MOL. There were six notices sent. Of the six notices sent, two were received in favor and none in objection. At the request of Mrs. Neal, the letters in support were read into the record. There were no objections from the audience. Mr. Graham explained he needed the extra residence for his family who travels from Georgia. There were no further questions or discussion from the Board. Mr. Topping made a motion to approve the Special Use Permit based on the information provided in the staff report. Mr. Brown seconded the motion and the motion carried.

S 10-01-2

James W. Douglas

James Douglas, applicant, and Robert Reynolds, applicant's attorney, were present and requesting a Special Use Permit for transporting facilities for animals or animal products. There were four notices sent. Of the four notices sent, none were received in favor and two in objection. There were several audience members in support and opposition wishing to be heard listed as follows: Ray Thornton, Sharon Thornton, Bryan Harty, Lorena Noel, Clark Stillwell Attorney for Ray Thornton and Frederick Johnston, Frederick Johnston, Tom Turner, Ernest Pegg, Paul Carpenter, Arlington Lambert, Gary LaRowe, Elaine Britt, Richard Helms, David Albright and Patrick Clark.

Mr. Reynolds stated the business was classified as a nonconforming use, which has been in operation since 1985. Mr. Reynolds submitted a copy of the occupational license issued by the tax collector's office and photos of the property into evidence. Mr. Reynolds explained there were 18 semi trucks for egg delivery and submitted information obtained from the Department of Environmental Protection into the record. Mr. Douglas stated he hauls eggs for Hillandale Farms and other than the semis on the property, he

does minor alterations to brakes, tires, alternators and has fuel for reefer units on site. Mr. Douglas explained he does not do any oil changes or engine work on the property. Mr. Douglas explained all the trucks were Department of Transportation certified and most of the vehicles are gone by 10:00 p.m. Mr. Reynolds submitted an aerial with markings showing commercial property in the surrounding areas.

Mr. Reynolds called Mr. Richard Helms, Development Coordinator for Sumter County as a witness. Mr. Helms stated he did a site evaluation of the property and there were very few trucks, no odors, leaks or spills. Mr. Nichols had questions regarding whether the filling of the pond was approved through the proper channels. Mr. Helms stated there were no concerns with the Planning Department about the pond. Mr. Reynolds then tendered Mr. Helms as an expert witness. Clark Stillwell, Attorney for Ray Thornton and Frederick Johnston, objected.

The Board took a recess at 7:40 p.m. and reconvened at 7:46 p.m with all of the aforementioned members present.

Mr. Stillwell voiced concerns as to whether Mr. Helms could be classified as an expert. Mr. Reynolds then offered Mr. Helms as a skilled witness for limited purposes. Mrs. Neal explained to the Board the difference between a witness and an expert witness. After much deliberation as to whether Mr. Helms could be classified as an expert or skilled witness, Mr. Topping made a motion to declare Mr. Helms as an informed witness not an expert witness. Mr. Bradley seconded the motion and the motion carried.

The following audience members requesting to be heard were all sworn in. Paul Carpenter, Ernest Pegg, Arlington Lambert, Gay LaRowe, Elaine Britt, David Albright, and Patrick Clark were all in favor of the operation and testified to the effect Mr. Douglas kept his property clean and noise free, was speed conscientious, and Mr. Douglas was respectful to his neighbors.

Mr. Johnston, adjoining property owner, submitted photos of the property entrance and stated he felt his property value was affected. Mr. Reynolds submitted photos of Mr. Johnston's property into the record. Mr. Stillwell then submitted photos of Mr. Douglas' property into the record. Tom Turner, a member of the Tampa Bay Grotto stated Mr. Thornton's property has bat caves with the endangered bat species. Mr. Turner submitted photos of the bat caves into the record and spoke of the possible groundwater contamination, which could be caused by the cleaning of the vehicles. There were several objections from the audience regarding noise, truck volume, safety, the bat caves, and ground and water contamination of the aquifer.

David Thompson was sworn in and stated there will always be possibilities of spills and the trucks do not run overnight, unless a refrigeration unit is running. Mr. Stillwell submitted letters of correspondence between himself and the Sumter County Building Official, Skip Lukert, reflecting the structures on the property were not suited for commercial use.

Mr. Stillwell made his closing argument stating the applicant had not met the standards of Section 13-143 of the Sumter County Land Development Code nor had he submitted a conceptual site plan.

The Board took a recess at 10:00 p.m. and reconvened at 10:05 p.m. with all of the aforementioned members present.

Mr. Reynolds made his closing statement. The Board then closed off the public comments.

There was a lengthy discussion from the Board about whether Applicant's use of the property constituted a truck terminal, the limitations as to the agricultural business and whether the trucks could be stored at Hillandale Farms, and whether the Applicant qualified for a special use permit under Section 1.127 of the Code since the eggs were produced off site. At the end of the discussion, Mr. Topping made a motion to deny the requested Special Use Permit due to:

1. The adverse impacts on the surrounding properties.
2. The testimony did not bear the burden of proof required for a special use permit.
3. The growth was incompatible with the area.
4. The concern for the area filled in for parking was not done properly.
5. The use would be detrimental to the area and infringe on the surrounding property owner's rights.
6. The Applicant's property did not qualify for a special use permit under Section 1.127 of the Code.

Mr. Brown seconded the motion. Upon roll call the votes were cast as follows: Mr. Brown – aye, Mr. Topping – aye, Mr. Pierazek – aye, Mr. Bradley – aye, Mr. Mask – nay, Mr. Singleton – nay, Mr. Childers – nay. The motion carried to deny the request with a 5-3 vote.

Mr. Brown made a motion to adjourn the meeting. Mr. Bradley seconded the motion and the motion carried.

The meeting adjourned at 10:58 p.m.

Larry Story, Chairman
Zoning & Adjustment Board